

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 State Bar No. 91740  
455 Golden Gate Avenue, Suite 11000  
4 San Francisco, CA 94102-7004  
Telephone: (415) 703-5556  
5 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

6  
7 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

9  
10 In the Matter of the Petition to Revoke  
Probation Against,

Case No. 2007-132

11 **JENNIFER LYNN MATCHAM**  
a.k.a. Jennifer Lynn Engell  
12 **2854 Conifer Drive**  
13 **Fairfield, CA 94533**

PETITION TO REVOKE PROBATION

14 **Registered Nurse License No. 568960**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Petition to Revoke Probation  
20 solely in her official capacity as the Interim Executive Officer of the Board of Registered  
21 Nursing, Department of Consumer Affairs.

22 2. On or about July 21, 2000, the Board of Registered Nursing issued Registered Nurse  
23 License Number 568960 to Jennifer Lynn Matcham, a.k.a. Jennifer Lynn Engell (Respondent).  
24 The Registered Nurse License was in effect at all times relevant to the charges brought herein and  
25 will expire on July 31, 2010, unless renewed.

26 3. In a disciplinary action entitled *In the Matter of the Amended Accusation Against:*  
27 *Jennifer Lynn Engell, a.k.a. Jennifer Lynn Matcham*, Case No. 2007-132, the Board of Registered  
28 Nursing issued a decision, effective July 2, 2007, in which Respondent's Registered Nurse

1 License was revoked. However, the revocation was stayed and Respondent was placed on  
2 probation for a period of three (3) years with certain terms and conditions. A copy of that  
3 decision is attached as Exhibit A and is incorporated by reference.

#### 4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board of Registered Nursing  
6 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
7 references are to the Business and Professions Code unless otherwise indicated.

8 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
10 licensee or to render a decision imposing discipline on the license.

11 6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
12 administrative law judge to direct a licensee found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case.

#### 15 FIRST CAUSE TO REVOKE PROBATION

16 (Failure to Comply with the Board's Probation Program)

17 7. At all times after the effective date of Respondent's probation, Condition No. 2 stated  
18 in relevant part:

19 **Comply with the Board's Probation Program.** Respondent shall fully comply with the  
20 conditions of the Probation Program established by the Board and cooperate with  
21 representatives of the Board in its monitoring and investigation of the Respondent's  
22 compliance with the Board's Probation Program. Respondent shall inform the Board in  
writing within no more than 15 days of any address change and shall at all times maintain  
an active, current license status with the Board, including during any period of suspension.

23 8. Respondent's probation is subject to revocation because she failed to comply with  
24 Probation Condition No. 2, referenced above. The facts and circumstances of this violation are as  
25 follows:

26 A. Respondent failed to work as a registered nurse for a minimum of 24 hours per week  
27 for 6 consecutive months. As a result, Respondent violated one of the conditions of the Probation  
28 Program (see Probation Condition No. 6 below).

1 B. Respondent failed to make any cost payments to the Board toward her \$9,000.00  
2 balance. As a result, Respondent violated one of the conditions of the Probation Program (see  
3 Probation Condition No. 11 below).

4 C. On or about December 11, 2009, Respondent submitted to a random drug test and  
5 tested positive for alcohol. By using alcohol, Respondent violated one of the conditions of the  
6 Probation Program (see Probation Condition No. 16 below).

7 SECOND CAUSE TO REVOKE PROBATION

8 (Failure to Work as a Registered Nurse for the Required Time)

9 9. At all times after the effective date of Respondent's probation, Condition No. 6 stated  
10 in relevant part:

11 **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage  
12 in the practice of registered nursing in California for a minimum of 24 hours per week for 6  
13 consecutive months or as determined by the Board.

14 ...

15 10. Respondent's probation is subject to revocation because she failed to comply with  
16 Probation Condition No. 6, referenced above. The facts and circumstances of this violation are as  
17 follows:

18 A. Respondent failed to work as a registered nurse for a minimum of 24 hours per week  
19 for 6 consecutive months.

20 THIRD CAUSE TO REVOKE PROBATION

21 (Failure to Pay Costs to the Board)

22 11. At all times after the effective date of Respondent's probation, Condition No. 11  
23 stated in relevant part:

24 **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation  
25 and enforcement pursuant to Business and Professions Code section 125.3 in the amount of  
26 \$9,000.00. Respondent shall be permitted to pay these costs in a payment plan approved by  
27 the Board, with payments to be completed no later than three months prior to the end of the  
28 probation term.

1 12. Respondent's probation is subject to revocation because she failed to comply with  
2 Probation Condition No. 11, referenced above. The facts and circumstances of this violation are  
3 as follows:

4 A. Respondent failed to make any cost payments to the Board toward her \$9,000.00  
5 balance.

6 FOURTH CAUSE TO REVOKE PROBATION

7 (Failure to Abstain from Use of Psychotropic (Mood-Altering) Drugs)

8 13. At all times after the effective date of Respondent's probation, Condition No. 16  
9 stated in relevant part:

10 **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall completely  
11 abstain from the possession, injection or consumption by any route of all psychotropic  
12 (mood altering) drugs, including alcohol, except when the same are ordered by a health care  
professional legally authorized to do so as part of documented medical treatment.

13 ...

14 14. Respondent's probation is subject to revocation because she failed to comply with  
15 Probation Condition No. 16, referenced above. The facts and circumstances of this violation are  
16 as follows:

17 A. On or about December 11, 2009, Respondent submitted to a random drug test and  
18 tested positive for alcohol.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking the probation that was granted by the Board of Registered Nursing in Case  
23 No. 2007-132 and imposing the disciplinary order that was stayed, thereby revoking Registered  
24 Nurse License No. 568960 issued to Jennifer Lynn Matcham, a.k.a. Jennifer Lynn Engell;

25 2. Revoking or suspending Registered Nurse License No. 568960 issued to Jennifer  
26 Lynn Matcham, a.k.a. Jennifer Lynn Engell;

27 ///

28 ///

BOARD OF REGISTERED NURSING  
CALIFORNIA

DOE & J MO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. Taking such other and further action as deemed necessary and proper.

DATED: June 25, 2010

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., R.N.  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

SF2010200745  
20284601.docx

BOARD OF REGISTERED NURSING  
CALIFORNIA  
JUN 25 2010

## **Exhibit A**

**Decision and Order**

**Board of Registered Nursing Case No. 2007-132**

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JENNIFER LYNN ENGELL  
a.k.a. JENNIFER LYNN MATCHAM  
2854 Conifer Drive  
Fairfield, CA 94533

Registered Nurse License No. 568960

Respondent

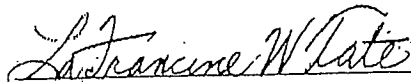
Case No. 2007-132

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on July 2, 2007.

IT IS SO ORDERED May 30, 2007.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 FRANK PACOE  
Supervising Deputy Attorney General  
3 REBECCA M. HEINSTEIN, State Bar No. 173202  
Deputy Attorney General  
4 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation  
12 Against:

13 **JENNIFER LYNN ENGELL**  
14 **a.k.a. JENNIFER LYNN MATCHAM**  
2854 Conifer Drive  
14 Fairfield, California 94533  
15 Registered Nurse License No. 568960

16 Respondent

Case No. 2007-132

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Rebecca M. Heinstein, Deputy Attorney General.

25 2. Jennifer Lynn Engell, a.k.a. Jennifer Lynn Matcham (Respondent) is  
26 representing herself in this proceeding and has chosen not to exercise her right to be represented  
27 by counsel.   
28



3. On or about July 21, 2000, the Board of Registered Nursing issued Registered Nurse License Number 568960 to Jennifer Lynn Engell, a.k.a. Jennifer Lynn Matcham (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2008, unless renewed.

## JURISDICTION

4. Amended Accusation No. 2007-132 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Amended Accusation and all other statutorily required documents were properly served on Respondent on December 27, 2006. Respondent timely filed her Notice of Defense contesting the Amended Accusation. A copy of Amended Accusation No. 2007-132 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Amended Accusation No. 2007-132. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Amended Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Amended Accusation No. 2007-132.

/ / /

9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 568960 issued to Respondent Jennifer Lynn Engell, a.k.a. Jennifer Lynn Matcham is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

**Severability Clause.** Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other

1 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
2 and enforceable to the fullest extent permitted by law.

3           1.       **Obey All Laws.** Respondent shall obey all federal, state and local laws.  
4 A full and detailed account of any and all violations of law shall be reported by Respondent to  
5 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
6 compliance with this condition, Respondent shall submit completed fingerprint forms and  
7 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
8 as part of the licensure application process.

9           **Criminal Court Orders:** If Respondent is under criminal court orders, including  
10 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
11 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

12           2.       **Comply with the Board's Probation Program.** Respondent shall fully  
13 comply with the conditions of the Probation Program established by the Board and cooperate  
14 with representatives of the Board in its monitoring and investigation of the Respondent's  
15 compliance with the Board's Probation Program. Respondent shall inform the Board in writing  
16 within no more than 15 days of any address change and shall at all times maintain an active,  
17 current license status with the Board, including during any period of suspension.

18           Upon successful completion of probation, Respondent's license shall be fully  
19 restored.

20           3.       **Report in Person.** Respondent, during the period of probation, shall  
21 appear in person at interviews/meetings as directed by the Board or its designated  
22 representatives.

23           4.       **Residency, Practice, or Licensure Outside of State.** Periods of  
24 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
25 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
26 of California. Respondent must provide written notice to the Board within 15 days of any change  
27 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
28 returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

1                   7.       **Employment Approval and Reporting Requirements.** Respondent  
2 shall obtain prior approval from the Board before commencing or continuing any employment,  
3 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
4 performance evaluations and other employment related reports as a registered nurse upon request  
5 of the Board.

6                   Respondent shall provide a copy of this Decision to her employer and immediate  
7 supervisors prior to commencement of any nursing or other health care related employment.

8                   In addition to the above, Respondent shall notify the Board in writing within  
9 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
10 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
11 terminated or separated, regardless of cause, from any nursing, or other health care related  
12 employment with a full explanation of the circumstances surrounding the termination or  
13 separation.

14                   8.       **Supervision.** Respondent shall obtain prior approval from the Board  
15 regarding Respondent's level of supervision and/or collaboration before commencing or  
16 continuing any employment as a registered nurse, or education and training that includes patient  
17 care.

18                   Respondent shall practice only under the direct supervision of a registered nurse  
19 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
20 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
21 are approved.

22                   Respondent's level of supervision and/or collaboration may include, but is not  
23 limited to the following:

24                   (a)   Maximum - The individual providing supervision and/or collaboration is  
25 present in the patient care area or in any other work setting at all times.

26                   (b)   Moderate - The individual providing supervision and/or collaboration is in  
27 the patient care unit or in any other work setting at least half the hours Respondent works.

28                   (c)   Minimum - The individual providing supervision and/or collaboration has

1 person-to-person communication with Respondent at least twice during each shift worked.

2 (d) Home Health Care - If Respondent is approved to work in the home health  
3 care setting, the individual providing supervision and/or collaboration shall have person-to-  
4 person communication with Respondent as required by the Board each work day. Respondent  
5 shall maintain telephone or other telecommunication contact with the individual providing  
6 supervision and/or collaboration as required by the Board during each work day. The individual  
7 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
8 site visits to patients' homes visited by Respondent with or without Respondent present.

9 9. **Employment Limitations.** Respondent shall not work for a nurse's  
10 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
11 traveling nurse, or for an in-house nursing pool.

12 Respondent shall not work for a licensed home health agency as a visiting nurse  
13 unless the registered nursing supervision and other protections for home visits have been  
14 approved by the Board. Respondent shall not work in any other registered nursing occupation  
15 where home visits are required.

16 Respondent shall not work in any health care setting as a supervisor of registered  
17 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
18 nurses and/or unlicensed assistive personnel on a case-by-case basis.

19 Respondent shall not work as a faculty member in an approved school of nursing  
20 or as an instructor in a Board approved continuing education program.

21 Respondent shall work only on a regularly assigned, identified and predetermined  
22 worksite(s) and shall not work in a float capacity.

23 If Respondent is working or intends to work in excess of 40 hours per week, the  
24 Board may request documentation to determine whether there should be restrictions on the hours  
25 of work.

26 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
27 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
28 than six months prior to the end of her probationary term.

1 Respondent shall obtain prior approval from the Board before enrolling in the  
2 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
3 completion for the above required course(s). The Board shall return the original documents to  
4 Respondent after photocopying them for its records.

5 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with  
6 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
7 amount of \$9,000.00. Respondent shall be permitted to pay these costs in a payment plan  
8 approved by the Board, with payments to be completed no later than three months prior to the  
9 end of the probation term.

10 If Respondent has not complied with this condition during the probationary term,  
11 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
12 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
13 grant an extension of Respondent's probation period up to one year without further hearing in  
14 order to comply with this condition. During the one year extension, all original conditions of  
15 probation will apply.

16 12. **Violation of Probation.** If Respondent violates the conditions of her  
17 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
18 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
19 license.

20 If during the period of probation, an accusation or petition to revoke probation has  
21 been filed against Respondent's license or the Attorney General's Office has been requested to  
22 prepare an accusation or petition to revoke probation against Respondent's license, the  
23 probationary period shall automatically be extended and shall not expire until the accusation or  
24 petition has been acted upon by the Board.

25 13. **License Surrender.** During Respondent's term of probation, if she ceases  
26 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
27 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
28 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to

1 take any other action deemed appropriate and reasonable under the circumstances, without  
2 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
3 will no longer be subject to the conditions of probation.

4 Surrender of Respondent's license shall be considered a disciplinary action and  
5 shall become a part of Respondent's license history with the Board. A registered nurse whose  
6 license has been surrendered may petition the Board for reinstatement no sooner than the  
7 following minimum periods from the effective date of the disciplinary decision:

8 (1) Two years for reinstatement of a license that was surrendered for any  
9 reason other than a mental or physical illness; or

10 (2) One year for a license surrendered for a mental or physical illness.

11 14. **Physical Examination.** Within 45 days of the effective date of this  
12 decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or  
13 physician assistant, who is approved by the Board before the assessment is performed, submit an  
14 assessment of Respondent's physical condition and capability to perform the duties of a  
15 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
16 medically determined, a recommended treatment program will be instituted and followed by  
17 Respondent with the physician, nurse practitioner, or physician assistant providing written  
18 reports to the Board on forms provided by the Board.

19 If Respondent is determined to be unable to practice safely as a registered nurse,  
20 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
21 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
22 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
23 shall immediately cease practice and shall not resume practice until notified by the Board.  
24 During this period of suspension, Respondent shall not engage in any practice for which a license  
25 issued by the Board is required until the Board has notified Respondent that a medical  
26 determination permits Respondent to resume practice. This period of suspension will not apply  
27 to the reduction of this probationary time period.

28 / / /



1           If Respondent fails to have the above assessment submitted to the Board within  
2 the time directed by Board staff, Respondent shall immediately cease practice and shall not  
3 resume practice until notified by the Board. This period of suspension will not apply to the  
4 reduction of this probationary time period. The Board may waive or postpone this suspension  
5 only if significant, documented evidence of mitigation is provided. Such evidence must establish  
6 good faith efforts by Respondent to obtain the assessment, and a specific date for compliance  
7 must be provided. Only one such waiver or extension may be permitted.

8           **15. Participate in Treatment/Rehabilitation Program for Chemical**  
9 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
10 period or shall have successfully completed prior to commencement of probation a Board-  
11 approved treatment/rehabilitation program of at least six months duration. As required, reports  
12 shall be submitted by the program on forms provided by the Board. If Respondent has not  
13 completed a Board-approved treatment/rehabilitation program prior to commencement of  
14 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
15 a program. If a program is not successfully completed within the first nine months of probation,  
16 the Board shall consider Respondent in violation of probation.

17           Based on Board recommendation, each week Respondent shall be required to  
18 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
19 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
20 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
21 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
22 such attendance to the Board during the entire period of probation. Respondent shall continue  
23 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
24 mental health examiner and/or other ongoing recovery groups.

25           **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
26 shall completely abstain from the possession, injection or consumption by any route of all  
27 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a  
28 health care professional legally authorized to do so as part of documented medical treatment.

1 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the  
2 prescribing health professional, a report identifying the medication, dosage, the date the  
3 medication was prescribed, the Respondent's prognosis, the date the medication will no longer  
4 be required, and the effect on the recovery plan, if appropriate.

5 Respondent shall identify for the Board a single physician, nurse practitioner or  
6 physician assistant who shall be aware of Respondent's history of substance abuse and will  
7 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
8 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
9 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
10 condition. If any substances considered addictive have been prescribed, the report shall identify a  
11 program for the time limited use of any such substances.

12 The Board may require the single coordinating physician, nurse practitioner, or  
13 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
14 addictive medicine.

15 **17. Submit to Tests and Samples.** Respondent, at her expense, shall  
16 participate in a random, biological fluid testing or a drug screening program which the Board  
17 approves. The length of time and frequency will be subject to approval by the Board.  
18 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
19 number at all times. Respondent shall also ensure that messages may be left at the telephone  
20 number when she is not available and ensure that reports are submitted directly by the testing  
21 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
22 to the Board by the program and Respondent shall be considered in violation of probation.

23 In addition, Respondent, at any time during the period of probation, shall fully  
24 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
25 tests and samples as the Board or its representatives may require for the detection of alcohol,  
26 narcotics, hypnotics, dangerous drugs, or other controlled substances.

27 If Respondent has a positive drug screen for any substance not legally authorized  
28 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the

1 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
2 from practice pending the final decision on the petition to revoke probation or the accusation.  
3 This period of suspension will not apply to the reduction of this probationary time period.

4 If Respondent fails to participate in a random, biological fluid testing or drug  
5 screening program within the specified time frame, Respondent shall immediately cease practice  
6 and shall not resume practice until notified by the Board. After taking into account documented  
7 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
8 Board may suspend Respondent from practice pending the final decision on the petition to  
9 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
10 this probationary time period.

11 18. **Mental Health Examination.** Respondent shall, within 45 days of the  
12 effective date of this decision, have a mental health examination including psychological testing  
13 as appropriate to determine her capability to perform the duties of a registered nurse. The  
14 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
15 practitioner approved by the Board. The examining mental health practitioner will submit a  
16 written report of that assessment and recommendations to the Board. All costs are the  
17 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
18 result of the mental health examination will be instituted and followed by Respondent.

19 If Respondent is determined to be unable to practice safely as a registered nurse,  
20 the licensed mental health care practitioner making this determination shall immediately notify  
21 the Board and Respondent by telephone, and the Board shall request that the Attorney General's  
22 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
23 practice and may not resume practice until notified by the Board. During this period of  
24 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
25 is required, until the Board has notified Respondent that a mental health determination permits  
26 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
27 probationary time period.

28 / / /

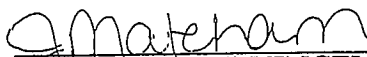
1 If Respondent fails to have the above assessment submitted to the Board within  
2 the time directed by Board staff, Respondent shall immediately cease practice and shall not  
3 resume practice until notified by the Board. This period of suspension will not apply to the  
4 reduction of this probationary time period. The Board may waive or postpone this suspension  
5 only if significant, documented evidence of mitigation is provided. Such evidence must establish  
6 good faith efforts by Respondent to obtain the assessment, and a specific date for compliance  
7 must be provided. Only one such waiver or extension may be permitted.

8 19. **Therapy or Counseling Program.** Respondent, at her expense, shall  
9 participate in an on-going counseling program until such time as the Board releases her from this  
10 requirement and only upon the recommendation of the counselor. Written progress reports from  
11 the counselor will be required at various intervals.

12 **ACCEPTANCE**

13 I have carefully read the Stipulated Settlement and Disciplinary Order. I  
14 understand the stipulation and the effect it will have on my Registered Nurse License. I enter  
15 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,  
16 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

17 DATED: 02/14/07.

18  
19   
20 JENNIFER LYNN ENGELL,  
21 a.k.a. JENNIFER LYNN MATCHAM  
22 Respondent  
23  
24  
25  
26  
27  
28

///

///

///

///

///

///

///

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 2/26/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

Rebecca M. Heinstein  
REBECCA M. HEINSTEIN  
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Amended Accusation No. 2007-132

1 BILL LOCKYER, Attorney General  
of the State of California  
2 REBECCA M. HEINSTEIN, State Bar No. 173202  
Deputy Attorney General  
3 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
4 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
5 Facsimile: (415) 703-5480  
6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

10 In the Matter of the Amended Accusation  
11 Against:

Case No. 2007-132

12 **JENNIFER LYNN ENGELL**  
13 **a.k.a. JENNIFER LYNN MATCHAM**  
14 2854 Conifer Drive  
Fairfield, California, 94533  
15 Registered Nurse License No. 568960

**AMENDED ACCUSATION**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Amended  
20 Accusation solely in her official capacity as the Executive Officer of the Board of Registered  
21 Nursing, Department of Consumer Affairs.

22 2. On or about July 21, 2000, the Board of Registered Nursing issued  
23 Registered Nurse License Number 568960 to Jennifer Lynn Engell, a.k.a. Jennifer Lynn  
24 Matcham (Respondent). The license was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on July 31, 2008, unless renewed.

26 **JURISDICTION**

27 3. This Amended Accusation is brought before the Board of Registered  
28 Nursing (Board), under the authority of the following sections of the Business and Professions

1 Code (Code).

2 4. Section 2750 of the Code provides, in pertinent part, that the Board may  
3 discipline any licensee, including a licensee holding a temporary or an inactive license, for any  
4 reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of  
6 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
7 against the licensee or to render a decision imposing discipline on the license. Under Code  
8 section 2811, subdivision (b), the Board may renew an expired license at any time within eight  
9 years after the expiration.

10 **STATUTORY PROVISIONS**

11 6. Section 2761 of the Code states, in pertinent part:

12 The board may take disciplinary action against a certified or licensed nurse  
13 or deny an application for a certificate or license for any of the following:

14 (a) Unprofessional conduct . . .

15 . . . . .

16 "(f) Conviction of a felony or of any offense substantially related to the  
17 qualifications, functions, and duties of a registered nurse, in which event the record of the  
conviction shall be conclusive evidence thereof.

18 . . . . .

19 7. Section 490 of the Code states:

20 "A board may suspend or revoke a license on the ground that the licensee has been  
21 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties  
22 of the business or profession for which the license was issued. A conviction within the meaning  
23 of this section means a plea or verdict of guilty or a conviction following a plea of nolo  
24 contendere. Any action which a board is permitted to take following the establishment of a  
25 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has  
26 been affirmed on appeal, or when an order granting probation is made suspending the imposition  
27 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the  
28 Penal Code."



1. 8. Section 2762 of the Code states, in pertinent part:

2. In addition to other acts constituting unprofessional conduct within the  
3. meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
4. for a person licensed under this chapter to do any of the following:

5. (a) Obtain or possess in violation of law, or prescribe, or except as  
6. directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
7. himself or herself, or furnish or administer to another, any controlled substance as  
8. defined in Division 10 (commencing with Section 11000) of the Health and Safety  
9. Code or any dangerous drug or dangerous device as defined in Section 4022.

10. (b) Use any controlled substance as defined in Division 10 (commencing with  
11. Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
12. device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
13. dangerous or injurious to himself or herself, any other person, or the public or to the  
14. extent that such use impairs his or her ability to conduct with safety to the public the  
15. practice authorized by his  
16. or her license.

17. . . . .

18. (e) Falsify, or make grossly incorrect, grossly inconsistent, or  
19. unintelligible entries in any hospital, patient, or other record pertaining to the  
20. substances described in subdivision (a) of this section.

21. 9. Section 4060 of the Code states, in pertinent part:

22. No person shall possess any controlled substance, except that furnished to  
23. a person upon the prescription of a physician, dentist, podiatrist, or veterinarian,  
24. or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant  
25. to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician  
26. assistant pursuant to Section 3502.1. This section shall not apply to the  
27. possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
28. physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse  
practitioner, or physician assistant, when in stock in containers correctly labeled  
with the name and address of the supplier or producer.

10. Health and Safety Code section 11173, subdivision (a) provides that no  
person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure  
the administration of or prescription for controlled substances, (1) by fraud, deceit,  
misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

11. Title 16, California Code of Regulations, section 1444, provides, in  
relevant part:

"A conviction or act shall be considered to be substantially related to the  
qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the  
present or potential unfitness of a registered nurse to practice in a manner consistent with the

1 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the  
2 following:

3 . . . .  
4 "(c) Theft, dishonesty, fraud, or deceit.  
5 . . . .

6 12. Section 125.3 of the Code provides, in pertinent part, that the Board may  
7 request the administrative law judge to direct a licensee found to have committed a violation or  
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
9 and enforcement of the case.

#### 10 11 CONTROLLED SUBSTANCES

12 13. "Morphine" is a Schedule II controlled substance as designated by Health  
13 and Safety Code section 11055, subdivision (b)(1)(M).

14 14. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate, also  
15 known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and  
16 Safety Code section 11056, subdivision (e)(4), and 500 mg. acetaminophene per tablet.

#### 17 MOUNT DIABLO MEDICAL CENTER

#### 18 FIRST CAUSE FOR DISCIPLINE

#### 19 (Obtaining and Possessing a Controlled Substance)

20 15. Respondent is subject to disciplinary action under section 2761(a) of the  
21 Code on the grounds of unprofessional conduct, as defined by section 2762 (a) of the Code, in  
22 that while on duty as a registered nurse at Mount Diablo Medical Center in Concord, California,  
23 Respondent did the following:

24 a. On or about November 23, 2001 and December 10, 2001, Respondent  
25 obtained an unknown quantity of Morphine, a controlled substance, by fraud, deceit,  
26 misrepresentation, subterfuge, or by concealment of a material fact in violation of Health and  
27 Safety Code section 11173(a), by diverting unknown quantities of Morphine from hospital  
28 supplies.

1                   b.       On or about November 23, 2001 and December 10, 2001, Respondent  
2 possessed an unknown quantity of Morphine, a controlled substance, in violation of section 4060  
3 of the Code.

4                                   **SECOND CAUSE FOR DISCIPLINE**

5                                   **(Conviction - Substantially Related Crime)**

6                   16.       Respondent is subject to disciplinary action under sections 490 and  
7 2761(f) of the Code, in that she was convicted of a criminal offense which is substantially related  
8 to the qualifications, functions or duties of a registered nurse, as defined in Title 16, California  
9 Code of Regulations, section 1444, as follows:

10                   a.       On or about November 23, 2004, in a criminal proceeding entitled *The*  
11 *People of the State of California vs. Jennifer Lynn Engell*, Superior Court of California, County  
12 of Contra Costa, Case Number 214223-0, Respondent was convicted by a plea of nolo  
13 contendere of violating Health and Safety Code Section 11173(a)(obtaining controlled substance  
14 by fraud - Morphine), a misdemeanor. Respondent was sentenced to two(2) years court  
15 probation. Respondent was further ordered to submit to drug/alcohol use detection tests as  
16 directed by a Court Probation Officer or by any peace officer.

17                   b.       The underlying circumstances relate to Respondent's diversion of  
18 Morphine from Mount Diablo Medical Center in or about December, 2001.

19                                   **THIRD CAUSE FOR DISCIPLINE**

20                                   **(Falsify, or Make Grossly Incorrect, Grossly Inconsistent  
21 or Unintelligible Entries in Patient/Hospital Records)**

22                   17.       Respondent is subject to disciplinary action under section 2761(a) of the  
23 Code on the grounds of unprofessional conduct, as defined by section 2762(e) of the Code, in  
24 that on or about November 23, 2001 and December 10, 2001, while on duty as a registered nurse  
25 at Mount Diablo Medical Center in Concord, California, Respondent falsified, made grossly  
26 incorrect, grossly inconsistent or unintelligible entries in patient/hospital records, as follows:

27                   / / /

28                   / / /

1                    **Patient A**

2                    a.        On or about December 9, 2001, at approximately 2132 hours, Respondent  
3 withdrew 10 mg. of Morphine from the Pyxis for Patient A when there was no physician's order  
4 for Morphine. Respondent charted the Morphine as wasted; however, she failed to have the  
5 wastage witnessed and countersigned.

6                    **Patient B**

7                    b.        On or about December 9, 2001, at approximately 2117 hours, Respondent  
8 withdrew 10 mg. of Morphine from the Pyxis for Patient B when there was no physician's order  
9 for Morphine and the patient had been previously discharged from the facility. Respondent failed  
10 to chart the wastage of the Morphine or otherwise account for the disposition of the Morphine in  
11 any patient or hospital record.

12                   **Patient C**

13                   c.        On or about December 9, 2001, at approximately 1900 hours, Respondent  
14 withdrew 10 mg. of Morphine from the Pyxis for this patient when there was no physician's  
15 order for Morphine and the patient had already been discharged from the facility. Respondent  
16 failed to chart the wastage of the Morphine or otherwise account for the disposition of the  
17 Morphine in any patient or hospital record.

18                   **Patient D**

19                   d.        On or about November 23, 2001, at approximately 1314 hours,  
20 Respondent withdrew 10 mg. of Morphine from the Pyxis for this patient when there was no  
21 physician's order for Morphine. Respondent charted the administration of 4 mg. of Morphine in  
22 the patient's medication administration record; however, Respondent failed to chart the wastage  
23 or otherwise account for the disposition of the remaining 6 mg. of Morphine in any  
24 patient/hospital record.

25                   / / /

26                   / / /

27                   / / /

28                   / / /

**VACA VALLEY HOSPITAL**

**THIRD CAUSE FOR DISCIPLINE**

**(Obtaining, Possessing, and Self-Administering a Controlled Substance)**

18. Respondent is subject to disciplinary action under section 2761(a) of the Code on the grounds of unprofessional conduct, as defined by section 2762 (a) of the Code, in that while employed as a registered nurse at Vaca Valley Hospital in Vacaville, California, Respondent did the following:

a. In or about June, 2002, Respondent obtained an unknown quantity of Vicodin, a controlled substance, by fraud, deceit, misrepresentation, subterfuge, or by concealment of a material fact in violation of Health and Safety Code section 11173(a), by diverting unknown quantities of Vicodin from hospital supplies for her own use.

b. Respondent possessed an unknown quantity of Vicodin, a controlled substance, in violation of section 4060 of the Code.

c. Respondent self-administered an unknown quantity of Vicodin, a controlled substance, without a lawful prescription.

**FOURTH CAUSE FOR DISCIPLINE**

**(Use of Controlled Substance to a Dangerous Extent)**

19. Respondent is subject to disciplinary action under section 2761(a) of the Code on the grounds of unprofessional conduct, as defined by section 2762(b) of the Code, in that Respondent used Morphine and/or Vicodin to an extent or in a manner dangerous or injurious to herself or others and/or to the extent that such use impaired her ability to conduct with safety to the public the practice authorized by her license as follows:

a. In or about November and December, 2001, Respondent diverted Morphine from hospital supplies, as set forth in paragraph 13, above.

b. In or about June, 2002, Respondent diverted Vicodin for her own use from hospital supplies, as set forth in paragraph 15, above.

c. On or about June 12, 2002, Respondent enrolled in the Board's Diversion Program.


1 d. On or about September 7, 2004, Respondent was terminated from the  
2 Board's Diversion Program as a public safety threat for failure to attend nurse support group,  
3 failure to attend AA meetings, failure to submit monthly self reports, and failure to undergo  
4 urine testing.

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
7 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 8 1. Revoking or suspending Registered Nurse License Number 568960, issued  
9 to Jennifer Lynn Engell, a.k.a. Jennifer Lynn Matcham;  
10 2. Ordering Jennifer Lynn Engell, a.k.a. Jennifer Lynn Matcham, to pay the  
11 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this  
12 case, pursuant to Code section 125.3; and,  
13 3. Taking such other and further action as deemed necessary and proper.  
14

15 DATED: 12/18/06  
16

17   
18 RUTH ANN TERRY, M.P.H., R.N.  
19 Executive Officer  
20 Board of Registered Nursing  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant  
24  
25  
26  
27  
28